

§ 110.42 Deadlines for filing Request Forms.

(a) *General.* All Request Forms (or Letters of Intent, described in paragraph (b) of this section) must be filed within one year of the date of the administration or use of a covered countermeasure that is alleged to have caused the injury. If no previous Request Form (or Letter of Intent) has been filed, this deadline also applies to survivor(s) of an injured countermeasure recipient who is deceased, and to the executor or administrator of his or her estate. If a Request Form (or Letter of Intent) was previously filed, § 110.46 describes amendments to Request Packages.

(b) *Letters of Intent.* Until Request Forms and Instructions are available, requesters must file a Letter of Intent to File, in order to establish that their Requests for Benefits are timely filed within the one-year deadline. Directions for submitting a Letter of Intent (to file) are available on the Program's Web site at <http://www.hrsa.gov/countermeasurescomp/> or by calling 1-888-ASK-HRSA. Even once Request Forms are available, the Secretary has the discretion to accept Letters of Intent (to file) for purposes of meeting the filing deadline. However, when Request Forms and Instructions are available, all requesters who have submitted Letters of Intent must still file Request Forms as soon as possible.

(c) *Determination of proper filing.* The filing date is the date the Request Form (or Letter of Intent) is postmarked. A legibly dated receipt from a commercial carrier, a private courier service, or the U.S. Postal Service will be considered equivalent to a postmark. If and when Request Forms are accepted electronically, the filing date is the date the Request Form is submitted electronically. A Request Form will not be considered filed unless it has been completed (to the fullest extent possible) and signed by the requester or his or her personal or legal representative. After filing a Request Form within the governing filing deadline, a requester must update the Request Package to reflect new information as it becomes available (*e.g.*, copies of medical records generated after

the initial submission of the Request Package).

(d) *Request Forms not filed within the one-year deadline.* If the Secretary determines that a Request Form or Letter of Intent was not filed within the governing filing deadline set out in this section, the Request Form (or Letter of Intent) will not be processed and the requester will not be eligible for benefits under this Program.

(e) *Constructive receipt.* The Secretary reserves the right to consider a legal claim filed with the Federal Government (*e.g.*, a Federal Tort Claims Act claim or a petition with the National Vaccine Injury Compensation Program) concerning an alleged injury resulting from the administration or use of a covered countermeasure to be a filing of a Request Form or Letter of Intent for purposes of determining the filing date under this Program. The date of such constructive filing will be the official filing date of the action, *i.e.*, when all applicable requirements for proper filing in that forum have been met.

(f) *Request Forms (or amendments to Request Forms) based on initial publication of a Table of Injuries or modifications to an existing Table.* The Secretary may publish a new Table (or Tables) by amendment(s) to subpart K of this part. The effect of such a new Table or amendment may enable a requester who previously could not establish a Table injury to do so. In such circumstances, the requester must file a new Request Form if one was previously submitted and eligibility was denied or if one was not previously submitted within one year after the effective date of the establishment of, or amendment to, the Table. If the Secretary has not made a determination, she will automatically review any pending Request Forms in light of the new or amended Table(s).

§ 110.43 Deadlines for submitting documentation.

(a) *Documentation for eligibility determinations.* A requester will satisfy the filing deadline as long as the signed Request Form is completed (to the fullest extent possible) and submitted

within the governing filing deadline described in § 110.42. The Secretary generally will not begin review of a requester's eligibility until all the documentation necessary to make this determination has been submitted.

(b) *Documentation for benefits determinations.* Although the Secretary will accept documentation required to make benefits determinations (*i.e.*, calculate benefits available, if any) at the time the Request Form is filed or any time thereafter, requesters need not submit such documentation until they have been notified that the Secretary has determined eligibility. The Secretary will not generally begin review of the benefits available to a requester until the documentation necessary to make a benefits determination has been submitted.

§ 110.44 Legal or personal representatives of requesters.

(a) *Generally.* Persons other than a requester (*e.g.*, a lawyer, guardian, family member, friend) may file a Request Package on a requester's behalf as his or her legal or personal representative. A requester need not use the services of a lawyer to apply for benefits under this Program. A legal representative, or a personal representative (who does not need to be a lawyer) is only required, as described in this section, for requesters who are minors or adults who lack legal capacity to receive payment of benefits. In the event that a legal or personal representative files on behalf of a requester, the representative will be bound by the obligations and documentation requirements that apply to the requester (*e.g.*, if a requester is required to submit employment records, the representative must file the requester's employment records). The representative must also satisfy the requirements specific to representatives set out in this part. If a requester has a representative, the Program will generally direct all communications to the representative. However, the Secretary reserves the right of the Program to contact the requester directly if necessary, and to conduct a follow-up survey to determine the ability of the Program to meet requesters' needs.

(b) *Legal or personal representatives of legally competent adults.* A requester who is a legally competent adult *may* use a legal or personal representative to submit a Request Package on his or her behalf. In such circumstances, the requester must indicate on the Request Form that he or she is authorizing the representative to seek benefits under this Program on his or her behalf.

(c) *Legal or personal representatives of minors and adults who lack legal capacity to receive payment of benefits.* A requester who is a minor or an adult who lacks legal capacity to receive payment of benefits *must* use a legal or personal representative to apply for benefits under this Program on his or her behalf. In such circumstances, the representative must indicate, in the place provided on the Request Form, that the requester is a minor or an adult who lacks legal capacity to receive payment of benefits and that the representative is filing on behalf of the requester. In addition, before the requester will be paid by the Program, the representative must submit the documentation described in § 110.63. A minor who is emancipated, as determined by a court of competent jurisdiction, does not need a legal or personal representative to file a Request Form or Request Package on his or her behalf.

(d) *No payment or reimbursement for legal or personal representatives' fees or costs.* The Act does not authorize the Secretary to pay for, or reimburse, any fees or costs associated with the requester's use of the services of a legal or personal representative under this Program, including those of an attorney.

§ 110.45 Multiple survivors.

Multiple survivors of the same deceased injured countermeasure recipient may file Request Forms separately or together. Multiple survivors may also submit one set of any required documentation on behalf of all of the requesting survivors as long as such documentation is identical for each survivor.

§ 110.46 Amending a Request Package.

(a) *Generally.* All requesters may amend their documentation concerning